

## Fact Sheet: Meeting legal requirements for work placements

Below are some of the common legal requirements that need to be addressed prior to work placements.

Note that these details were correct as of November 2021. You will need to check with the relevant authorities for any updates since this time.

### Pre-employment checks

Students undertaking work placements in aged care and disability support services may require specific checks to gain admission to particular work environments.

RTOs need to allow sufficient time for these checks to be finalised ahead of placements and need to have discussed with students the implications of a negative outcome, ideally prior to enrolment into the course.

Where a student is under 18 years of age, parental consent may be required to apply for pre-employment checks. RTOs also need to ensure that they have sought the student's express consent to share the outcome with service providers and will need a policy to govern the retention, storage and destruction of these records.

Depending on the work environment, one or more of the following may be required:

- National Police Check –
  - This is mandatory for programs under Commonwealth Aged Care Act 1997, which includes students on vocational placement.
  - International students and others who have lived overseas for any period of time after the age of 16 must provide an additional statutory declaration.
  - Where an aged care provider is a registered NDIS provider, the NDIS Worker Screening Check may be recognised so that both clearances are not required.
- NDIS Worker Screening Check –
  - Registered NDIS providers must ensure that key personnel and other workers in certain types of roles have a worker screening clearance that meets the requirements of the NDIS Practice Standards.
  - In certain circumstances, some of the acceptable checks from the transitional period can continue to be relied on to meet the worker screening obligations.
  - The circumstances are specified in the provisions that relate to the relevant state or territory in Part 4 of the National Disability Insurance Scheme (Practice Standards – Worker Screening) Rules 2018.
- Working with Children Check –
  - certain people who work, or will be working, for a registered NDIS provider, in a risk assessed role and who work with children will need to be screened and hold both a Working with Children (WWC) Card and an NDIS Worker Screening Check (NDIS Check) clearance in order to do so.
  - The NDIS Check and WWC Check both involve different legislation. The NDIS Check is based on the National Disability Insurance Scheme (Worker Screening) Act 2020. There is no national framework setting out the requirements for obtaining a Working With Children Check. Each state and territory has their own procedures and requirements.



## Vaccinations

RTOs need to ensure that their students meet any mandated vaccination requirements prior to their placement and ideally students should be informed of these requirements before they enrol in the qualification.

All residential aged care workers are required to provide their employer with evidence of their COVID-19 vaccination or authorised exemption. Residential aged care providers are required to keep a record of workers' vaccination status, in line with the direction set out in the relevant state or territory public health order.

The Australian Health Protection Principal Committee is considering mandating COVID-19 vaccination for all in-home and community aged care workers nationally.

Some states and territories have included these workers in the mandatory requirements:

- On 1 October 2021, the Victorian Government announced mandatory COVID-19 vaccination for all authorised workers. This includes in-home and community aged care workers.
- On 13 October 2021, the Northern Territory Government announced the introduction of mandatory COVID-19 vaccination for workers in high-risk workplaces. This includes in-home and community aged care workers.
- On 15 October 2021, the New South Wales Government announced that it is a requirement for all in-home and community aged care workers to receive a COVID-19 vaccination. This includes all in-home aged care and Commonwealth Home Support Programme workers.
- On 20 October 2021, the Australian Capital Territory Government announced the introduction of mandatory COVID-19 vaccination for in-home and community aged care workers.

The Australian Government has not mandated vaccinations for disability support workers but strongly urges these workers to get vaccinated. Requirements may differ across state and territory governments.

[Mandatory COVID-19 vaccination in aged care | Australian Government Department of Health](#)

[Information for disability workers about COVID-19 vaccines | Australian Government Department of Health](#)

These links provide information about vaccination requirements across different jurisdictions.



## Workplace Health and Safety

Workplace Health and Safety requirements for work placements and the agreements between training providers and service providers also vary across jurisdictions.

RTOs need to make sure that the workplace in which students are going to undertake their placement provides a safe environment, that students have undergone relevant workplace health and safety training before the work placement and that the worksite provides a safety induction for the student and appropriate supervision during the entire placement.

The service provider will have certain legal responsibilities relating to the duty of care required for all people on their premises and some legislation treats students on placements similarly to employees.

## Insurance

Both RTOs and service providers need to consider their own insurance needs and take legal advice on their obligations.

In some instances, insurance arrangements for student placements may be covered by a Volunteers Insurance Policy but this would need to be confirmed by service providers.

If a student is required to drive a service provider's vehicle, they will need a suitable driver's license and insurance arrangements should be clarified and documented.

